

HONORABLE LAUREN KING

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

WASHINGTON ELECTION INTEGRITY )	Case No. 2:21-cv-01394-LJK
COALITION UNITED, a Washington State )	
Nonprofit Corporation; DOUG BASLER; )	
HOWARD FERGUSON; DIANA BASS; )	SUPPLEMENTAL BRIEFING
TIMOFEY SAMOYLENKO; )	RE REMAND
MARY HALLOWELL; )	
SAMANTHA BUCARI; RONALD )	
STEWART; LYDIA ZIBIN; CATHERINE )	
DODSON, )	
)	
)	
Plaintiffs, )	
)	
v. )	
)	
)	
JULIE WISE, Director of King County )	
Elections; KING COUNTY, and DOES )	
1-30, inclusive, )	
)	
Defendants. )	
)	

Per the Court's Order dated August 5, 2022, Plaintiff Washington Election Integrity Coalition United ("WEiCU"), without appearance, and with full reservation of rights, respectfully submits the following supplemental briefing re: remand upon review of *Polo v.*

SUPPLEMENTAL BRIEFING RE REMAND

*Innoventions Int'l, LLC*, 833 F.3d 1193 (9<sup>th</sup> Cir. 2016) (“*Polo*”) and *Britton v. Cnty. of Santa Cruz* No. 19-CV-04263-LHK, 2020 WL 4197609 (N.D. Cal. 2020) (“*Britton*”).

As made clear by the *Polo* and *Britton* decisions, where a Defendant asserts that a Plaintiff lacks Article III standing for claims in a removed action, as is the situation here, the Court lacks subject matter jurisdiction requiring remand:

By arguing that Plaintiffs lack Article III standing, Defendants in effect concede that the Court lacks subject matter jurisdiction over Plaintiff’s Section 1983 claim because standing is a requisite component of subject matter jurisdiction.

*Britton*, at pp. 6-7. Here, as in *Britton*, Defendants are moving for dismissal on grounds including that Plaintiffs lack standing to bring their claims for injunctive or declaratory relief (Causes of Action IV through XV) which form the factual and legal basis for Plaintiff’s declaratory, injunctive relief and Section 1983 claims (Causes of Action XVII through XIX). Defendants’ Motion to Dismiss, Document 17, pp. 9-10. Furthermore, Defendants openly concede, as they must, that “[A]rticle III’s standing requirements applies to cases that have been removed to federal court.” Defendants’ Motion to Dismiss, Document 17, p. 10, ll. 18-20 (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992), *Lee v. Am. Nat. Ins. Co.*, 260 F.3d 997, 1008 (9<sup>th</sup> Cir. 2001)).

Where Defendants themselves argue that Plaintiffs lack Article III standing to assert their claims, “Defendants have failed to meet their burden to establish that the Court has subject matter jurisdiction”, and “[b]oth statute and Ninth Circuit precedent . . . make clear that remand is the only appropriate option . . . .” *Britton*, at p.7 (citing *Polo* at 1196), 28 U.S.C. §1447(c).<sup>1</sup>

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<sup>1</sup>“Remand is the correct remedy because a failure of federal subject-matter jurisdiction means only that the *federal* courts have no power to adjudicate the matter. State courts are not bound by

1 In addition, under the *Britton* decision, the Court may not exercise supplemental  
2 jurisdiction over WEiCU's Public Records Action based on state law (Cause of Action XVI)  
3 where the Court lacks original jurisdiction over any other claim:  
4

5 Because supplemental jurisdiction requires that the Court have original  
6 jurisdiction over at least one other claim, the Court may not exercise supplemental  
7 jurisdiction over Plaintiffs' state law declaratory relief claim.


8 *Britton*, at p. 10 (citing *Del Toro v. Centene Corp.*, No. 19-CV-05163-LHK, 2020 WL 1643861,  
9 at \*6 (N.D. Cal. April 2, 2020)).

10 Consequently, in view of *Polo* and *Britton*, this Court lacks subject matter jurisdiction  
11 over any claims in the Verified Complaint. Because this Court lacks subject matter jurisdiction,  
12 WEiCU hereby stipulates to full remand of all claims in the Verified Complaint notwithstanding  
13 its present Motion to Sever and Remand claims under 28 U.S.C. §1441(c)(2). *Polo*, at 1194, 28  
14 U.S.C. §1447(c).

15 Respectfully submitted,

16 VIRGINIA P. SHOGREN, P.C.

17  
18 Dated: August 15, 2022

19 

20 By: Virginia P. Shogren, Esq.  
21 961 W. Oak Court  
22 Sequim, WA 98382  
23 360-461-5551  
24 WEiCUattorney@protonmail.com

25 Attorney for Plaintiff WEiCU

26  
27 the constraints of Article III.” *Polo* at 1196, citing *ASARCO Inc. v. Kadish*, 490 U.S. 605, 617  
(1989).

28 SUPPLEMENTAL BRIEFING RE REMAND

CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2022, I electronically filed the following with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the counsel of record as indicated:

SUPPLEMENTAL BRIEFING RE REMAND

Ann M. Summers  
David J.W. Hackett  
Mari Isaacson  
(Counsel for Defendants)

Kevin Hamilton  
Reina Almon-Griffin  
Amanda Beane  
(Counsel for Proposed Intervenor)

And I hereby certify that I caused to be served the document via email provided by the following parties who are non CM/ECF participants:

Doug Basler  
Howard Ferguson  
Diana Bass  
Timofey Samoylenko  
Mary Hallowell  
Samantha Bucari  
Ronald Stewart  
Lydia Zibin  
Catherine Dodson

Dated: August 15, 2022

s/ Virginia P. Shogren  
Virginia P. Shogren  
961 W. Oak Court  
Sequim, WA 98382  
360-461-5551

SUPPLEMENTAL BRIEFING RE REMAND